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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/616,344

07/09/2003

Ryuichi Iwamura

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EXAMINER

RIVAS, SALVADOR E

ART UNIT

PAPER NUMBER

2619

MAIL DATE

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06/05/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/616,344	Applicant(s) IWAMURA, RYUICHI	
	Examiner SALVADOR E. RIVAS	Art Unit 2619	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 March 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: 32-34.
Claim(s) objected to: _____.
Claim(s) rejected: 7,9,11-17,20,21 and 31.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement(s)*. (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Chirag G Shah/
Supervisory Patent Examiner, Art Unit 2619

Continuation of 11. does NOT place the application in condition for allowance because: The Applicant argues, see Page 8 Paragraph 2 Lines 6-10 states "... the combination of the Gitlin et al and Lynch et al references does not provide the teaching that "transmitting a new tone map to the first and second receivers that specifies that the first and second receivers are to receive the single data stream using the common set of carriers during one or more designated time slots" is obvious." as recited in claim 16. Also, The Applicant respectfully submits that the combination of the Gitlin et al and Lynch et al. "fails to establish prima facie obviousness." The examiner respectfully disagrees since the combination of Gitlin et al. and Lynch et al. does teach the limitation of "transmitting a new tone map to the first and second receivers that specifies that the first and second receivers are to receive the single data stream using the common set of carriers during one or more designated time slots;" (page 3 Claim 16 Lines 8-10). For example, the Lynch et al. reference was introduced due to the fact that the reference teaches a system capable of providing exchange and evaluation of link level operations between stations in a communication network. Furthermore, the link management services (Fig.2 @ 22) of the Lynch et al. reference is capable to formulate and issue tone maps as it pertains to the quality of signaling being exchanged between stations (Paragraph [0011] Lines 4-11, Paragraph [0057] Lines 1-5, Paragraph [0058] Lines 4-9). Therefore it would have been obvious to use Lynch et al. in combination with Gitlin et al. for transporting new tone maps between nodes in a communication network.

The Applicant argues, see Page 9 Paragraph 1 Lines 11-16 states "... no teaching for multiple receivers to receive a single data stream as designated by a tone map, or using merged time slots as non-contiguous time-frequency slices are not merged and Gitlin et al discloses a single transmitter for higher rate users. This is in no way the same as "the tone map designates that the first and second receivers receive the single data stream using merged time slots" as recited in claim 20. The examiner respectfully disagrees since Gitlin et al., as modified by Lynch et al., does teach "the transmission resource, partitioned into the "time-frequency" domain, is divided into a plurality of time-frequency "slices" that are allocated to users according to their various transmission requirements." (Column 3, Lines 7-10).

Applicant provides additional arguments that do not render the claims allowable after the prosecution on the merit is closed.